

Attachment VII

New York State Department of Health (NYSDOH) Standards for the Sexual Assault Forensic Examiner

A. INTRODUCTION

The initial response a victim of rape or sexual assault receives when seeking health care or reporting the crime has a profound influence on that individual's subsequent recovery. The treatment of sexual assault victims by health care providers and the criminal justice system has not been universally adequate. In response to a lack of consistent, adequate and sensitive care across the nation there has been an emergence and use of health care practitioners known as Sexual Assault Examiners (SAE), Sexual Assault Nurse Examiners (SANE), and Sexual Assault Forensic Examiners (SAFE). These terms are often used interchangeably, but the term SAFE will be used throughout this document. The NYSDOH will certify all appropriately qualified individuals as Sexual Assault Forensic Examiners (SAFEs).

In New York State, comprehensive and high quality medical care, collection of forensic evidence, and respectful and sensitive treatment comprise the standard of care for rape and sexual assault victims presenting at health care settings. The Department of Health recommends the use of SAFEs in all hospitals to assist in meeting this standard. The use of DOH-certified SAFEs is required in hospitals seeking SAFE designation.

These practitioners are committed to ensuring the best medical, legal, and psychological outcomes for the adult victim of sexual assault. They are specially trained to provide care to victims of sexual assault. They are skilled in collecting and preserving forensic evidence to support prosecution and are prepared to provide testimony in a court of law, if the victim decides to report the crime to law enforcement. They provide compassionate emotional support to the victim of sexual assault.

In New York State, Sexual Assault Forensic Examiners should work closely with rape crisis victim advocates, other health care providers, police, and prosecutors to form an interdisciplinary team which effectively and compassionately responds to the victim's needs. The results of this interdisciplinary approach are tangible: better outcomes for the victim; comprehensive and high quality health assessment and treatment, better collection and preservation of evidence; and, an increased chance of arrest and conviction of the perpetrator of the crime, if the victim chooses to report the crime. As a member of that team, the sexual assault forensic examiner is responsible for maintaining the highest level of confidentiality, as the needs of the victim are addressed.

The health care setting is often the first institutional contact for the rape victim. Therefore, the Department has developed the following standards associated with the use of sexual assault forensic examiners in the health care setting.

The Department will certify SAFEs based upon these standards. The standards include the qualifications, roles and responsibilities, training and continuing education necessary to be a sexual assault forensic examiner in New York State. These standards are consistent with existing New York State Department of Health laws, regulations and protocols.

B. QUALIFICATIONS

An individual requesting certification by the NYS Department of Health as a sexual assault forensic examiner must certify on the required form and provide evidence to the NYS Department of Health that s/he:

1. Holds a current license to practice as a registered nurse, nurse practitioner, physician assistant or physician in the State of New York; and,
2. Performs within the scope of practice of the discipline in which s/he holds a license; and,
3. Has a minimum of one year, full-time clinical post-graduate experience; and,
4. Has successfully completed at least a 40 hour didactic and clinical training course approved by the New York State Department of Health. Individuals who can demonstrate competence in some or all of the course objectives required for DOH approval may be eligible for exemption from those components of the course; (See Training Requirements) and,
5. Has completed a competency-based post-course preceptorship. Under the supervision of a preceptor, the individual is provided with the opportunity to refine skills in performing pelvic exams, identifying injuries, using specialized equipment, collecting evidence and documenting injuries. In addition, during the preceptorship, opportunities should be provided to give the examiner the opportunity to understand the roles and responsibilities of the other professionals that interact with sexual assault survivors. For example, the examiner may observe the work of a rape crisis center, law enforcement agency, including the crime lab, the district attorney's office and a courtroom; and,
6. Has successfully demonstrated all key didactic and clinical competencies to a NYSDOH-approved training program; and,
7. Has a signed letter from the SAFE Program or other provider or institution ensuring qualified medical oversight of the sexual assault forensic examiner; or,
8. Has certification as a sexual assault nurse examiner-adult/adolescent (SANE-A) from the International Association of Forensic Nurses (IAFN) and has a signed letter from the SAFE Program or other provider or institution ensuring qualified medical oversight of the sexual assault forensic examiner.

The Department will also recertify a Sexual Assault Forensic Examiner every three years. An individual who is requesting recertification by the NYS Department of Health as a Sexual Assault Forensic Examiner must certify on the required form and provide evidence to the NYS Department of Health that s/he:

1. Completed a minimum of fifteen (15) hours of continuing education in the field of forensic science in the past three years;
2. Maintained competency in providing sexual assault examinations. Based upon the examiner's performance of sexual assault examinations during the preceding year, the

medical director of the SAFE program or other appropriate institution shall attest to the examiner's continuing competency. If the examiner has had more than a one year lapse in service during the three year period, the medical director should explain how competency was maintained or updated, i.e., via repeating training or by other means;

3. Will be provided with qualified clinical oversight as a Sexual Assault Forensic Examiner. A signed letter from the SAFE Program or other provider or institution will satisfy this requirement.

C. ROLES & RESPONSIBILITIES

The role of the Sexual Assault Forensic Examiner is to:

1. Ensure that the services of a trained rape crisis advocate have been offered to the patient prior to treatment, and work with the advocate to ensure victim needs are met;
2. Maintain patient confidentiality;
3. Provide the sexual assault patient with victim-centered, sensitive care which includes a comprehensive medical assessment and evaluation, including a thorough medical examination;
4. Document injuries;
5. Collect and preserve quality forensic evidence using the New York State Sexual Offense Evidence Collection Kit and Drug Facilitated Sexual Assault Kit where appropriate and maintain the chain of custody;
6. Provide prophylaxis for STDs, HIV and pregnancy prevention if the patient so desires;
7. Refer the patient to follow-up medical and psychological care;
8. Refer the patient to other emergency medical services as needed;
9. Provide testimony as to findings when needed, if the patient reports the crime, and the case is prosecuted; and,
10. Testify as an expert witness.

The Sexual Assault Forensic Examiner is not to be considered the victim's advocate; to do so would be a conflict in roles and could compromise the Sexual Assault Forensic Examiner's position in the courtroom. The role of the rape crisis advocate is to provide the victim with emotional support, advocacy, information, counseling, and accompaniment services, and to facilitate informed decision-making at a time when the victim may be in crisis.

In order to maintain the Sexual Assault Forensic Examiner's status as an objective and expert witness, it is recommended that the following information be provided by a Rape Crisis Advocate. In the absence of the Rape Crisis Advocate, the sexual assault forensic examiner may provide information about:

1. Civil and criminal court proceedings and availability of accompaniment and support throughout the legal process;
2. Availability of crime victims' compensation benefits; and,
3. Availability of crisis intervention, telephone and in-person counseling services.

Standards of Care

Sexual assault forensic examiner services must comply with all applicable state and federal laws, regulations, standards and protocols listed below.

- NYS Public Health Law Section 2805-i, Treatment of sexual offense patients and maintenance of evidence in a sexual offense;
- NYS Public Health Law Section 2805-p, Emergency treatment of rape survivors;
- Regulations Title 10 NYCRR 405.9(c) and 405.19(c)(4), Establishment of hospital protocols and maintenance of sexual offense evidence;
- The Department of Health *Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault*;
- The Department of Health *HIV Prophylaxis Following Sexual Assault: Guidelines for Adults and Adolescents*;
- The Sexual Assault Reform Act (SARA), Chapter 1 of the Laws of 2000.

D. QUALITY ASSURANCE

The Sexual Assault Forensic Examiner is required to participate in and comply with the quality assurance/improvement programs of the facility in which (s)he works. This includes, but is not limited to participating in training; demonstrating competence to provide appropriate care and treatment of patients who have been sexually assaulted, and updating that competence when new procedures/techniques are introduced. It also includes participating in efforts to identify, evaluate, resolve and monitor actual and potential problems in patient care.